

**MAY 2003 AGENDA**

SUBJECT	X	ACTION
	X	INFORMATION
		PUBLIC HEARING
Title 5 Regulations to Implement the Instructional Materials Funding Realignment Program		

Recommendation:

Approve permanent regulations as amended on April 9, 2003.

Summary of Previous State Board of Education Discussion and Action

At the January 2003 meeting, the State Board adopted Emergency Regulations to implement the Instructional Materials Realignment Program (IMFRP). A public hearing was held on April 9, 2003. Written comments were received related to the Emergency Regulations which are summarized below. One change was made to the Emergency Regulations to reflect recently enacted legislation (Senate Bill X1-18) which added *Education Code* section 60423 to the IMFRP.

The revised regulations have been circulated for a 15 day comment period. Any comments received during this time will be presented to the Board at the May meeting along with the Final Statement of Reasons.

Summary of Key Issue(s)

The Initial Statement of Reasons summarized the key issues addressed in the proposed regulations.

Fiscal Analysis (as appropriate)

Funding for the Instructional Materials Realignment Program is subject to annual appropriation in the state Budget Act.

Attachment(s)

- [Attachment I:](#) Summary and Response to Comments Received During the Initial Notice Period of January 31, 2003, through April 9, 2003 (1 page)
- [Attachment II:](#) Updated Information Digest (1 page)
- [Attachment III:](#) Revised Title 5 Regulations (4 pages)

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF JANUARY 31, 2003 THROUGH APRIL 9, 2003

Comment No. 1: Received from Karen Stapf Waters and Brett McFadden, of the Association of California School Administrators, and Rachel Jordan and Cara Lambirth of Palo Alto Unified School District. Both groups stated that materials adopted under AB2519 in mathematics and reading/language arts should qualify as standards-aligned for the purposes of the Instructional Materials Funding Realignment Program (IMFRP).

Response: Senate Bill X1-18, which was enacted on March 18, 2003, added *Education Code* section 60423 to the IMFRP. This section allows districts to use the materials adopted under AB2519 to meet the requirements of the IMFRP for the 2002-03 and 2003-04 school year. The emergency regulations were revised to reflect this change in law.

Comment No. 2: ACSA also suggested that paragraph (e) provide thirty percent of the IMFRP for flexibility instead of the \$9.00 in the emergency regulations.

Response: The Board set the amount at \$9.00 as a reasonable amount for other authorized purposes under *Education Code* section 60242. A percentage would fluctuate with the changes in annual allocations, while a set dollar amount would provide a stable amount for district use.

Comment No. 3: Rachel Jordan and Cara Lambirth of Palo Alto Unified School District also referred to the statutory requirement in *Education Code* section 60422 that materials for grades K-8 be provided to pupils within 24 months of the state adoption as being a financial burden on districts.

Response: Since this requirement is in statute, it cannot be changed by regulation.

UPDATED INFORMATION DIGEST

The Board proposes to adopt Sections 9531 and 9532 in Title 5 of the California Code of Regulations (CCR). These sections concern the implementation of the Instructional Materials Funding Realignment program for school districts and charter schools, grades K-12.

The purpose of the regulations is to establish the expenditure percentages and priorities for the use of state instructional materials funds for grades K-12, as well as, to clarify and define the procedures for new school districts, charter schools and expanding grade levels.

Education Code Section 60422 provides that districts use instructional materials funding to provide each pupil, grades K-12, with a standards-aligned textbook or basic instructional materials aligned to the state content standards in history-social science, mathematics, reading/language arts and science no later than 24 months after those materials are adopted by the State Board, for grades K-8. It also provides that after a district certifies compliance with these requirements and with the requirements of Section 60119, the district may use instructional materials funds for other purposes consistent with Section 60242.

Education Code Section 60421 also provides for estimation of enrollment for the purposes of receiving instructional materials funds for new school districts, new charter schools, or expanding grade levels.

Section 9531 specifies the expenditure priorities and percentages of the instructional materials fund that may be used for specified purposes.

Section 9532 clarifies the procedures for estimation of enrollment for new school districts, new charter schools, or expanding grade levels.

Title 5. EDUCATION
Division 1. State Department of Education
Chapter 9. Instructional Materials

Add Article 2.3 and Sections 9531 and 9532 to read:

ARTICLE 2.3. INSTRUCTIONAL MATERIALS FUNDING

§ 9531. Instructional Materials Funding Realignment Program: Expenditure Policy Percentages and 24 Month Purchasing Requirement.

(a) As much of the allocation, as is necessary, from the Instructional Materials Funding Realignment Program (IMFRP) annual appropriation to local education agencies must be spent to purchase textbooks or basic instructional materials adopted subsequent to the adoption of content standards (Education Code section 60605) for each pupil, in reading language arts, mathematics, history-social science, and science.

(1) For kindergarten and grades 1 to 8 this shall be textbooks or basic instructional materials adopted by the State Board of Education (SBE) pursuant to Education Code section 60200 inclusive. For grades 9 to 12, this shall be textbooks or instructional materials adopted by the local governing board pursuant to Education Code section 60400 following receipt of the standards maps submitted by publishers in accordance with Education Code section 60451.

(2) Textbooks or instructional materials must be purchased that are consistent with the content and cycles of the curriculum frameworks as required by Education Code section 60119.

(3) To ensure compliance with Education Code section 60119, first priority shall be for the purchase of textbooks or instructional materials after the adoption of the *K-12 Reading Language Arts Curriculum Framework* (December 1998), and the *K-12 Mathematics Curriculum Framework* (December 1998). For purposes of K-8 instructional materials, only mathematics materials adopted in or after 2001 and reading/language arts/English language development materials adopted in or after 2002 meet the requirements of this paragraph, **except as provided in Education Code section 60423.**

(4) Second priority shall be for the purchase of K-8 SBE adopted textbooks or basic instructional materials in history-social science (1999) and science (2000), or 9-12 textbooks or instructional materials adopted locally after the completion of the *K-12 History-Social Curriculum Framework* (October 2000) and the *K-12 Science Curriculum Framework* (February 2002).

(b) Upon certification by the local governing board that each pupil has been provided with a standards-aligned textbook or basic instructional materials in the four core curriculum areas, up to 100 percent of the annual IMFRP funds may be spent to purchase other instructional materials adopted by the SBE pursuant to Education Code section 60200 for kindergarten and grades 1 to 8,

inclusive, or by the governing board pursuant to Education Code section 60400 for grades 9 to 12, as may be necessary to meet the requirements of Education Code section 60119 in all subjects which are consistent with the content and cycles of the curriculum frameworks.

(c) Upon determination through the annual local public hearing and approval of a resolution by the local governing board, pursuant to Education Code section 60119, that each K-12 pupil has, or will have prior to the end of that fiscal year, sufficient textbooks or instructional materials or both, or the local governing board has taken action to ensure sufficiency of textbooks or instructional materials or both within a two-year period as required, and also that pursuant to Education Code section 60422(a), the local governing board has provided each K-12 pupil with standards-aligned textbooks or basic instructional materials by the beginning of the first school term that commences no later than 24 months after those materials were adopted by the SBE or, for grades 9-12, inclusive, were adopted by the local governing board, up to 100% of the remaining Instructional Materials Funding Realignment funds may be spent on any of the following:

(1) Instructional materials, including but not limited to supplementary instructional materials and technology-based materials, from any source and approved locally or by the state for legal and social compliance pursuant to Education Code sections 60040-60045 and 60048 and the SBE guidelines in *Standards for Evaluating Instructional Materials for Social Content* (revised 2000).

(2) To purchase tests.

(3) To bind basic textbooks that are otherwise useable and are on the most recent list of basic instructional materials adopted by the state board and made available pursuant to Education Code section 60200 or by the governing board pursuant to Education Code section 60400 for grades 9 to 12.

(4) To fund in-service training related to instructional materials.

(5) To purchase classroom library materials for kindergarten and grades 1 to 4 with the condition the school district has developed a district wide classroom library plan pursuant to Education Code section 60242 (d)(1), (2) and (3).

(d) For purposes of subdivision (c) and Education Code section 60422 (a), the reference to adoption of textbooks or basic instructional materials by the SBE shall refer to a primary adoption, which is the first adoption after the adoption of evaluation criteria by the SBE. A primary adoption is distinguished from a follow-up adoption, which is the second adoption of textbooks or basic instructional materials conducted by the SBE using the same evaluation criteria. Textbooks and basic instructional materials adopted in a follow-up adoption are added to the then-existing list of adopted textbooks and basic instructional materials for a subject area, and the period of adoption for those materials is the remaining time of the list for the primary adoption.

(e) Notwithstanding the provisions of subdivisions (a) and (b), in a fiscal year immediately following a primary adoption of textbooks and basic instructional materials in reading/language arts,

mathematics, history-social science, or science, a local education agency may use up to nine dollars (\$9.00) per student of a local agency's IMFRP allocation for that fiscal year generated by students in kindergarten through grade 8, and grades 9-12 inclusive, for the purposes specified in paragraphs (1) to (5), inclusive, of subdivision (c), provided the local governing board certifies by resolution adopted at a duly noticed public meeting a decision to pilot (i.e. evaluate in actual classroom application), during that fiscal year immediately following the primary adoption, one or more of the textbooks or basic instructional materials adopted by the SBE in that primary adoption. The local governing board certification must be made after the SBE concludes the primary adoption and before the commencement of the fiscal year immediately following that primary adoption.

NOTE: Authority cited: Sections 33031 and 60005, Education Code. Reference: Sections 60242, 60242.5, 60421, and 60422, and 60423.

§ 9532. School District or Charter School in its First Year of Operation or of Expanding Grade Levels at a School Site.

(a)(1) In order to be eligible to receive funding pursuant to Education Code section 60421 and consistent with Education Code section 47652, in the current fiscal year, a charter school in its first year of operation must commence operation on or before September 30 of that fiscal year. A charter school in its first year of operation that begins operations after September 30 of the current fiscal year shall not be eligible to receive instructional materials funding until the following fiscal year.

(2) For the purposes of this section and Education Code section 60421, "operation" shall be defined as providing instruction to pupils enrolled in the charter school.

(3) For purposes of receiving funding pursuant to Education Code section 60421, and consistent with Education Code section 35534, except as provided in Education Code sections 35535 and 35536, the first year of operation of a school district shall be July 1 of the calendar year following the calendar year in which the school district reorganization action is completed.

(b)(1) For the purposes of Education Code section 60421, "expanding grade levels" shall be defined as additional grades in the current fiscal year that did not exist as a school site of the school district or charter school in the prior fiscal year. For charter schools that operate multiple sites, expanding grade levels shall also only include any additional grades that did not exist in the prior fiscal year when considering all of the individual or satellite sites of the charter school in aggregate. If any one site of a charter school with multiple sites provides instruction to pupils in a particular grade level, then that grade level shall not be included in expanding grade levels.

(2) In order to receive funding pursuant to Education Code section 60421, the provision of instruction to pupils enrolled in the expanding grade levels at a school site of the school district or charter school shall commence on or before September 30 of the current fiscal year. A school site of the school district or charter school that commences instruction in its expanding grade levels after September 30 of the current fiscal year shall not be eligible to receive funding until the following fiscal year.

(c) For the purposes of this section and Education Code section 60421, "school site" shall be defined as a school with a separate County/District/School (CDS) code, as maintained by the

Superintendent of Public Instruction as of September 30 of the current fiscal year. Charter schools operating multiple school sites under one charter number provided by the SBE and one CDS code shall be considered one school site.

(d) A school district or charter school in its first year of operation or of expanding grade levels at a school site shall provide enrollment estimates to the California Department of Education by September 30 of the current fiscal year in order for the school district or charter school to receive funding in that fiscal year. The enrollment estimates shall be certified by the school district governing board or the charter school's charter-granting local educational agency (LEA), as appropriate, and the county office of education in which the school district or charter school's charter granting LEA is located. These enrollment estimates and the associated funding shall be adjusted for actual enrollment as reported by the California Basic Education Data System for the current fiscal year.

NOTE: Authority cited: Sections 33031 and 60005, Education Code. Reference: Sections 47652 and 60421, Education Code.